

**REPORT - PLANNING COMMISSION MEETING**  
**October 9, 2003**

**Project Name and Number:** DeVry University Student Dormitory (PLN2003-00309)

**Applicant:** Kenneth Rutkowski for DeVry Inc.

**Proposal:** To reconsider a Planned District Major Amendment for site plan and architectural approval and use of a new 83,996 square foot student dormitory on a developed lot (parking lot).

**Recommended Action:** Provide applicant and staff with further direction; or  
Approve, subject to conditions

**Location:** Ardentech Court, Northern Plain Planning Area

**Assessor Parcel Number(s):** 543-0439-145-00

**Area:** 5.19 Acres (226,032 square feet)

**Owner:** DeVry Inc.

**Agent of Applicant:** Steve Cienfuegos, Project Manager, Capstone West

**Consultant(s):** Dennis Kobza, AIA, Dennis Kobza & Associates, Inc. (Architect)  
David Readler, Principal, Kier & Wright (Civil Engineer)  
Richard Rogers, Treadwell & Rollo (Soils Engineer)  
Mike Zaide, Pascal Tech (MEP & Fire Engineering)  
Tom Johnson, Thomas A. Johnson & Associates (Structural Engineer)  
Charles Wilson, Wilson & Associates (Landscape Architect)

**Environmental Review:** A Mitigated Negative Declaration has been prepared under CEQA.

**Existing General Plan:** Restricted Industrial

**Existing Zoning:** P-81-15, Ardenwood High Technology Industrial Planned District

**Existing Land Use:** Site currently developed as a parking lot

**Public Hearing Notice:** Public hearing notification is applicable. A total of 90 notices were mailed to owners and occupants of property within 1,000 feet of the site on the following streets: Winslow Terrace, Melissa Terrace, Vane Common, Ardenwood Boulevard, Dumbarton Circle, among others. The notices to owners and occupants were mailed on September 10, 2003. A Public Hearing Notice was delivered to The Argus on September 8, 2003 to be published by September 10, 2003.

**Executive Summary:** On August 28, 2003, the Planning Commission considered and continued (6-1-0-0) a proposed Planned District Major Amendment to P-81-15 to allow a 83,996 square foot student dormitory for the DeVry University located in the Ardenwood High Technology Industrial Planned District Park. The Planning Commission indicated its concern regarding the design of the building, noting that its design should be enhanced or redesigned to create a "fun and enriched" learning environment for students. Based on direction received at the public hearing and suggestions made by two Planning Commissioners in a subsequent meeting with the applicant, the applicant indicates that the project has been redesigned to provide a more attractive, contemporary style dormitory.

Approval of the redesigned project will allow the development of the student dormitory and its associated site improvements. In general, the site plan and building layout remains consistent with the previous submittal, except for enhancements as indicated later in this report. The project still proposes to accommodate 300 students attending the DeVry University campus located on an adjoining lot to the southwest (6600 Dumbarton Circle). Should the Planning Commission support the project, the applicant indicates that the student dormitory will be completed prior to the fall campus session enrollment next year.

**Background and Previous Actions:** In November of 1981, the City Council adopted P-81-15, a Planned District, and certified EIR-80-89, an Environmental Impact Report, for the development of 810 acres of undeveloped land within the Northern Plain Planning Area, known as "Ardenwood Forest/New Town". Because of its size and magnitude, the Planned District was considered as a "new town", providing new facilities for living (3,800 additional dwellings), working (a high-tech industrial area), shopping and recreational activities. The scale of the Planned District was of such size that standard planned district procedures for project review were not applicable at the time. Therefore the Planned District as approved by the City Council only provided a "Precise Site Plan" for land uses, densities and circulation elements and a "Planned District Text", i.e., performance standards for development. Based on criteria established by the Planned District, the Planning Director is charged with site plan and architectural approval of all new structures (dwellings and industrial/commercial buildings) located within the Ardenwood Planned District. The intent of this streamlined approach is to reduce processing time normally required for a planned district, as the Planned District indicated that no further review was necessary by the Planning Commission or City Council, unless on referral or appeal.

On April 22, 1997, the City Council, by recommendation of the Planning Commission, unanimously approved a Major Planned District Amendment [P-81-15AAA] to P-81-15 for the Ardenwood Technology Park to allow "educational services, except elementary and secondary schools when located within structures with a minimum area of 5,000 square feet" as an included use in the Planned District. The City Council found it appropriate to amend the Planned District to include *educational services* in the same manner as such uses are currently included in the I-R, Restricted Industrial district.

On August 5, 1997, the Development and Environmental Services Director approved P-81-15EEE for the development of a 100,000 square foot, two-story building and associated parking facilities ("campus") for DeVry University. The campus accommodates approximately 2,700 students during each semester with 60 full-time and 50 part-time faculty members and 100 administrative staff.

On August 28, 2003, the Planning Commission continued the proposed project as described in this report to allow the applicant time to redesign.

On September 12, 2003, at the request of the applicant, a meeting with two Planning Commissioners and staff was held at the Development Services Center. The Commissioners provided the applicant with suggestions for redesign. The applicant indicates that these suggestions, as well as recommendations from the public hearing, were incorporated in the redesign of the proposed dormitory.

On September 25, 2002, the Planning Commission continued the proposed project to October 9, 2003.

### **Project Description:**

The applicant requests approval of a Planned District Major Amendment for site plan and architectural review and use of a new 83,996 square foot college dormitory located off of Ardentech Court on a lot that is currently improved as a parking lot. Generally, the Planning Director approves development within this Planned District. However, the Planning Director and Assistant City Manager found that the proposed project is of such nature that warrants a referral to and consideration by the Planning Commission, due to its potential public participatory factor and residential component in close proximity to industrial uses. As such, the Planning Commission is empowered to review this Major Amendment request and to consider if the proposed project: (a) is consistent with the allowable uses as identified in the Planned District as well as the General Plan; and (b) is compatible in design and character with surrounding development through site plan and architectural approval of the project.

The approval of the request will allow DeVry University to accommodate up to 300 students who wish to live adjacent to the DeVry University campus located at 6600 Dumbarton Circle with living, study and socialization areas, as well as a cafeteria and other ancillary room uses (fitness, game, study area, laundry room, etc.). The proposed dormitory facility faces Ardentech Court, is U-shaped and is three stories (reduced from 42 feet and 8 inches to 33 feet and 2 inches with the incorporation of a flat roof) in height. The facility's building footprint occupies approximately 13 percent of the lot area (or 29,192 square feet). The proposed college dormitory use will be the first in the City as well as the first dormitory (and potential model) for DeVry University. Much of the existing parking area of the lot will be removed (and recycled—Condition 53) for the development of the new dormitory.

While the overall scope and size of the project remains unchanged, the project has been redesigned to provide, according to the applicant, a dormitory with a more attractive, contemporary style look, as indicated under "Project Analysis" below.

**Site Planning:** The Planning Director and Assistant City Manager originally referred the proposed project to the Planning Commission to consider if the proposed project's use and design are appropriate in this Planned District in that the use would be located in close proximity to industrial uses. During the design phase of the project, staff and the City's Fire Department worked with the applicant to incorporate mitigation measures into the design of the student dormitory to ensure that the potential impact of hazardous substances on students is minimized.

The City's Fire Department Hazardous Materials Division reviews and approves all Risk Management Plans (RMP) in the City. The proposed project site would not receive any greater exposure to air quality impacts from adjacent industrial uses than other existing residential developments within the vicinity of the Ardenwood High Technology development. The RMP requirements by the City's Fire Department Hazardous Materials Division requires that annual inspections are performed to reduce potential impacts of hazardous substances to a less than a significant level. Although the proposed project in itself will not conflict or violate any air quality plan or standard, the project location is adjacent to existing industrial land uses which may expose students of the proposed project to very minor air pollutant concentrations or objectionable odors considered to be below the risk to human health, and a less than significant impact on existing or future residents within the project vicinity.

Annual safety site inspections and safety drills will be performed on a regular basis. As identified in the "Initial Study", the Fire Department Hazardous Materials Division shall continue annual site inspections and enforce and monitor the Risk Management Plan (RMP) requirements of industrial activities to reduce potential impacts of hazardous substances to a less than significant level. In addition, DeVry will install a fire alarm system which includes voice annunciation capability in the case of an emergency. A fire control room will be located in one identified location on the site easily accessible by emergency personnel. This room will include devices to control and allow closure of all exterior ventilation systems in the case of an emergency release of hazardous materials from an adjacent industrial user. Prior to approval of the Major Amendment (in lieu of a Use Permit), DeVry will prepare a site-specific emergency preparedness and response plan, an evacuation plan and a "shelter in place" plan. All plans will be required to be submitted to the City's Fire Department Hazardous Materials Division prior to occupancy and use of the proposed facility. The plans will also address possible impacts from hazardous materials releases from nearby industrial users, and will include escape routes from the building and site. Both the evacuation plan and shelter in place plan will be required to be posted and made available in the locations (e.g., in each hallway, elevators, at all exterior exits, cafeteria, study room, other ancillary rooms, etc.) and in sufficient numbers as reasonably determined by the Fire Department Hazardous Materials Division. Additionally, in accordance with Article 19, Section 3.13 of the California Fire Code, the applicant will conduct a yearly fire evacuation drill.

A noise and vibration study was also conducted for the proposed project. Consultant Illingworth & Rodkin, Inc. completed a professional noise and vibration assessment for the proposed project and provided mitigation measures based on its consideration as a residential project. The study concluded that vibration levels at the closest portion of the dormitory building adjacent to the Southern Pacific rail line do not exceed the Federal Transit Administration (FTA) criteria for a habitable buildings, requiring no mitigation. However, the study identified the Union Pacific rail line and State Route 84 as dominant sources of noise, resulting in the environmental noise levels along the eastern and southern edge of the site exceeding an exterior Ldn of 60 dBA. Additionally, the interior noise levels in the dormitory rooms on the southern and eastern sides may be exposed to maximum *instantaneous* noise levels of 50 dBA or greater when trains pass on the rail line(s).

The General Plan, however, does not specifically provide acceptable interior or exterior noise levels for college dormitories. Therefore, a comparison of General Plan identified uses in the Health and Safety Chapter most similar to a college dormitory use was made to establish appropriate noise level thresholds for the proposed project. In this case, interior noise level standards for a residential use and exterior noise level standards for a hotel/motel use are used to evaluate the noise impacts of the rail line and State Route 84 on the proposed project.

To mitigate interior noise levels, sound-rated windows and forced-air mechanical ventilation systems will be required for the units facing the southern and eastern sides of the site. Once building elevations are developed, an acoustical engineer will review the plans to assure that interior average and maximum noise levels meet State and City standards (Condition 32). Noise levels at the nearest dormitory units adjacent to the above-mentioned noise sources south and east of the site would be considered "normally acceptable" for the proposed development, meeting all Title 24 requirements.

Based on the results of the exterior noise survey (existing conditions) and future exterior noise projections, the courtyard would be also exposed to between 60 and 63 dBA under current noise conditions and 62-65 dBA Ldn under future noise conditions. Although two mitigation measures are identified in the study to mitigate exterior noise levels to within the normally acceptable range, existing conditions and future exterior noise projections are within the conditionally acceptable community noise exposure levels for the use when evaluated in comparison to a motel/hotel use (60-75Ldn). The community noise exposure levels for a motel/hotel use is relied upon in this case because the proposed project neither incorporates private open spaces (e.g., decks, balconies, privately fenced in areas, etc.) nor permits individuals that are not enrolled in or associated with the college to live in the dormitory. As a result, there will not be an extended exterior noise level impact on students or faculty members at the college dormitory. No mitigation is therefore necessary for the exterior noise.

#### **Project Analysis:**

- **General Plan Conformance:** The existing General Plan land use designation for the project site is Restricted Industrial. The proposed project is consistent with the existing General Plan land use designation for the project site because educational uses are permitted within this Planned District. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

**Public Facilities (PF) Goal 2: Support educational institutions to provide quality education to the children and adults of Fremont.**

Objective PF2.2: *Expand opportunities for post-secondary education in Fremont.*

Policy 2.2.1: *Continue to work with...private colleges to provide sufficient educational facilities for post-secondary education.*

Staff believes that permitting a college dormitory as an accessory or ancillary use to DeVry University's campus use implements goals, objectives and policies of the General Plan in that it supports an educational institution's intent of providing a dormitory for students who wish to live on or adjacent to campus. Generally, dormitories provide convenient and typically affordable room and board for students. Furthermore, dormitories promote and foster group-learning environments.

- **Zoning Regulations:** Under a Major Amendment approved by City Council in April of 1997, *Educational Services* are a permitted use in Planned District P-81-15. Staff considers a college dormitory to be an accessory or ancillary use to an educational institution and, therefore, finds that a dormitory use proposed at this site appropriate. Nonetheless, as referred by the Planning Director and Assistant City Manager, conditions of approval are recommended by staff to ensure proper development of the site and operation of the use for compatibility with the existing industrial character of the area. Findings for project approval are attached hereto as part of "Exhibit B". The Planning Commission must also consider site plan and architectural review of the proposed dormitory and its associated improvements.

Development standards approved under this Planned District require a minimum yard area adjacent to a public street of 25 feet; minimum accessible yards of 20 feet on at least two adjoining sides of a building free and clear of obstructions; and, a maximum height of 45 feet and a maximum 50 percent for site coverage. The proposed project complies with all of these standards.

**Parking:** At the time of the college campus development on the adjacent lot, it was not anticipated that the lot in question would be developed in the future for a dormitory site. As such, a parking lot was developed instead to provide for additional parking for the campus, far exceeding the parking requirement then (and current) for the sole use of the campus site (at 1 space per employee and 1 space for each 3 students). However, the development of the dormitory will result in a decrease in the total parking provided on both sites, from initially 1,516 stalls to 1,204 stalls, for the campus and new dormitory uses. As a result, 312 parking spaces onsite will be eliminated for the development of the new dormitory, resulting in approximately 301 parking spaces for 162 units on the dormitory site.

Although no parking standard is provided for a dormitory use in the Zoning Ordinance, parking standards for a motel/hotel or lodging house could be relied upon as a minimum standard. In using this standard, the 301 parking stalls proposed far exceeds the amount of parking required for a hotel, motel or lodging house of comparable size by almost two-fold (hotel/motel or lodging parking requirement is one space per guest room). In fact, the site proposed for the dormitory use is not currently needed. The site has been bollard off at both driveway entrances to prevent parking of vehicles on the site. In addition, overflow parking can be accommodated by 901 parking spaces located on the adjacent campus via a connecting driveway at the southwest end of the dormitory site. As such, staff believes that some of the proposed parking area should be converted to and provide for motorcycle parking (Condition 33) and a better, shorter and convenient linkage between the main campus and new dormitory (Condition 31).

- **Open Space/Landscaping:** As further analyzed under "Landscaping", the applicant indicates that approximately 42.54% or 96,146 square feet of the site will be landscaped (includes hardscape). In reviewing the plans, staff estimates that 81,000 square feet is composed of greenscape areas and the remaining 15,146 square feet is composed of hardscape (pedestrian walkways and courtyard areas). Paved parking areas are not included in this calculation.
- **Circulation/Access Analysis:** The site has direct access off of Ardentech Court via an existing driveway at the end of its cul-de-sac. Additionally, access is provided from the proposed dormitory to the existing DeVry University campus via a circulation path at the rear linking both parking areas together as well as providing a pedestrian walkway.

#### **Design Analysis:**

- **Architecture:** The applicant initially proposed a U-shaped, hip-roofed building which incorporated Dryvit®, a type of Exterior Insulation and Finish Systems (EIFS), as its main material for all exterior walls in two different finishes. The roofing material consisted of contemporary flat concrete tiles in a grayish color. A gray porcelain stone veneer was also proposed around the food facility, at selective locations under windows, and at the base of the columns at the main entrance. The Planning Commission, however, felt the design should be improved and provided direction to the applicant. The applicant also requested and received suggestions on the design of the dormitory by two Planning Commissioners in a subsequent informal meeting held at the Development Services Center.

In recognizing the site's existing conditions, and concerns and suggestions from the Planning Commission, the applicant indicates that the building has been redesigned to achieve a visually interesting contemporary look, while maintaining its functionality as a student dormitory, as provided below.

- Incorporated a stucco cement plaster in a fine finish as the dormitory's main exterior material;
- Replaced the hip roof with a flat roof with standing seam metal, barrel-shaped roof elements over the main front and rear (courtyard) entries;

- Incorporated a faux travertine product (GFRC as an option) to provide a contrasting hard-surface at tower elements and food facility;
- Added bay elements to achieve changes in wall planes;
- Added steel trellises and steel outriggers and brackets under cornice line;
- Added additional porcelain tiles to main entrance and walls of food facility;
- Included a raised, twenty-inch foam trim around all windows;
- Project roof overhangs at bay elements, supported by steel brackets;
- Added arched pilaster elements at food facility; and,
- Revised color palette in earth tone colors.

As staff indicated in the previous report, and as recommended by the Planning Commission at the public hearing, staff preferred a more contemporary designed building which incorporated GFRC material and a flat roof. Based on input and suggestions by the Planning Commission, the dormitory now is designed to have a more contemporary look in which staff believes is more appropriate for this location. The applicant does provide the Planning Commission with alternatives (Sheet A-4) to the proposed and preferred elevation showing all four sides of the dormitory (Sheet A-2). Staff recommends, however, the proposed elevations shown on Sheet A-2 with the following changes:

1. The incorporation of vertical trim elements, color treated an eggshell white color makes the dormitory appear too rigid. Vertical trim elements should only be selectively incorporated and eliminated at some of the wall sections (Condition 23).
2. The corners of pilaster elements at the food facility should be softened with accent lines and tile inserts to match other tower elements of the dormitory, thereby reducing its heavy appearance (Condition 24).
3. A different color and texture should be incorporated at the building base to establish a strong connection to the ground and site (Condition 25).
4. The building midsection should express the main 'body' of the building where by a cornice line element should be included between the third and second level as partially shown on Alternative 2 on Sheet A-3 of Plans (Condition 26).
5. The building top portion should express a different character by changing the window modulation and color to provide a variation in solid and voids from the lower two levels (e.g., changing operable slider windows to operable casement or single-hung windows, particularly at bay elements) or by incorporating a different architectural color treatment and/or design element (Condition 27).
6. A stronger vertical element (increased projection in wall) or contrasting color treatment should be applied to the projecting bays. The roofline should be varied at bays and increased in height and treated with additional bracket elements (Condition 28).
7. Additional glazing should be applied to third level under the main entry element or a different architectural treatment should be applied to emphasis the main entrance (below the arched roof element—Condition 29).

8. Color scheme should be revised. The proposed brown color should be changed to a deeper terracotta and the other colors should be reevaluated to ensure that they are harmonious with the main body color of the dormitory. Color contrast, however, is encouraged to express architectural details (Condition 30).

Staff believes that with these refinements and input received from the Planning Commission, the final design can be worked out during the Development Organization review process. Additional conditions are added to ensure that the finish materials and colors applied will enhance the substance and character of the building. For example, change in materials will be required to occur at inside corners to make the building volumes appear substantial, as material change at outside corners or in plane give an impression of thinness and artificiality (i.e., the travertine treatment). In addition, based on input by the Commission, materials and color treatment will be varied where appropriate to provide architectural interest. Staff recommends that the Planning Commission approve the project with the incorporation of the above recommendations.

- **Green Building:** The applicant has agreed to work with staff to include concepts and elements of “green building” into the design of the project (Condition 34). All windows in the dormitory are proposed to be operable, except for windows at the food facility. Now, with the incorporation of a flat roof, instead of a hip roof originally proposed, more day lighting is available for those units that face the interior courtyard from the early morning to late afternoon. Staff suggests that the black asphalt or roofing material on the flat roof be coated with a light colored gravel or painted with light colored or reflective paint to reflect the heat away from the building in the summer months. Similarly, the standing seam metal, barrel-shaped roof element should be treated with a light matte color. In addition, the applicant should explore the possibility of using recycled content materials on the interior and exterior of the building, including installing energy-saving appliances (e.g. washer and dryer system).
- **Landscaping:** The applicant has provided a revised and more complete landscape plan that is acceptable. The perimeter of the project site is planted with various trees (Myoporum, Eucalyptus, and Poplars), which act as buffer treatment from winds around the site. These trees are also tolerant of the environmental conditions at this site. The parking lot will be planted with broad-dome canopy tree types for shade and flowering trees for interest. The courtyard of the building will be planted with Redwoods and Sycamores for shade, interest, and background effect. With the exception of the redwood trees, all trees are conditioned for installation from 24” box containers (Condition 37).

As previously indicated, the outdoor courtyard provides benches and ample open lawn area for students. The applicant proposes bicycle racks, outdoor benches in the courtyard and an open lawn area. One basketball, single court is located on the campus side parking lot. At the previous public hearing, the applicant indicated that portable barbecues and tables will be provided for students as well as additional bike racks on the site (Condition 40). If the Planning Commission believes that additional amenities are appropriate, direction should be provided. It should be noted, however, that indoor amenities, including a fitness room, a video arcade room, and eating and studying areas, are proposed within the facility. In general, staff would consider these indoor areas as part of satisfying typical residential common open space area requirements in newly proposed residential projects.

Staff still finds that the pedestrian pathway connecting the new dormitory to the existing campus on the campus lot requires improvement. Although the plan now shows conceptual planters flanking both sides pathway on the existing campus side, the applicant neither proposes nor agrees to remove the existing asphaltic concrete on the existing campus site in place of a hard-surface, e.g., concrete or appropriate interlocking pavers of at least four feet in width, to clearly identify the pedestrian connection linking the new dormitory and college campus. Pedestrian linkages provide important connections between existing buildings and the proposed building. While walking across the parking lots, enriched paving will aid in articulating the path of pedestrian travel. A condition is added to require richly colored interlocking pavers, concrete pavers, or integral colored concrete that are consistent with the intent of the plan to provide a connection between both buildings (Condition 31). Staff also believes that some parking spaces on the dormitory site can be eliminated to provide a more shorter, convenient path. Additionally, a well lit walkway with decorative style bollard lights or the equivalent, with the inclusion of speed bumps or tables (or a raised pathway elevation change) should be incorporated to provide a safe and attractive pathway for the 300 students anticipated to be living in these dorms.

- **View Impacts:** The project is not anticipated to have any view impacts from State Route 84. An embankment elevates State Route 84 above the subject site, considerably reducing any view impact it may have on the Route.

**Grading & Drainage:** The project site is currently improved with a parking lot, including perimeter landscaping, interior landscape planters, tree islands, light posts, and an underground storm drain system. The project proposal includes the removal of most of the existing asphalt parking lot and storm drain system, reorienting the parking south of the new building, and incorporating approximately 1,200 linear feet of vegetated bio-swaes that lead into the storm drainage system. Staff requires that most of the asphalt parking lot paving removed to be recycled (Condition 53). Finally, grading and drainage is subject to staff review and approval during Development Organization review (Condition 58).

**Urban Runoff Clean Water Program:** The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. Adopted regulations require discharges of storm water associated with new development and construction to submit a Notice of Intent (NOI) to the State of California for activities disturbing more than one acre of land. The NOI is to include the development and implementation of a storm water pollution prevention plan emphasizing best management practices. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

**Geologic Hazards:** The project site is located in a Seismic Hazard Zone for Liquefaction, according to maps released July 2, 2003 by the California Geological Survey. In accordance with the Seismic Hazard Mapping Act, the City requires that a geotechnical report be prepared defining and delineating any seismic hazard. The applicant must provide this report for City review and approval prior to issuance of building permits. Once approved, the report is transmitted to the State Geologist to be kept on file. Identified mitigation measures in the geotechnical study, if any, shall be incorporated into the design of the project (Condition 54).

#### **Applicable Fees:**

- **Development Impact Fees:** This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. The Impact Fee Administrator [Assistant City Manager] has determined that the nature of the use does not substantially have an impact on public park facilities or services; therefore, impact fees for park facilities and park in-lieu dedication are waived. The remaining fees shall be calculated at the fee rates in effect at the time of building permit issuance (Condition 22).

**Waste Management:** This project involves the development of a new 83,996 square foot dormitory that is subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939). The Act requires that 50% of the waste generated in the City of Fremont be diverted from landfill sites by the year 2000. Additionally, the project is subject to the City's Source Reduction and Recycling Element (1992), an Integrated Waste Management Ordinance (1995), and a Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. Appropriate trash/recycling enclosure locations are proposed and included in the project. The exact location and design of these facilities will be subject to the review and approval of Development Organization staff (Condition 52).

**Environmental Analysis:** An Initial Study and Draft Mitigated Negative Declaration have been prepared for this project. The 30 day review period for these environmental documents started on July 29, 2003 and concluded on August 27, 2003. The environmental analysis identified concerns regarding potential impacts to Noise, Vibration, and Hazards and Hazardous Materials. The Draft Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures have been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure.

A finding is proposed that this project would not have a significant effect on the environment based upon the implementation of the identified mitigation measures. Accordingly, a Draft Mitigated Negative Declaration has been prepared for consideration by the Planning Commission.

The initial study conducted for the project has also evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources. Based on this finding, a Certificate of Fee Exemption will be submitted with the Notice of Determination after project approval, as required by Public Resources Code section 21089 (see attachment to draft Negative Declaration). The Certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

**Response from Agencies and Organizations:** As of the date of the writing of this report, no negative responses have been received concerning the environmental document or the proposed project.

According to the applicant, the Ardenwood Industrial Business Park has reviewed and approved the revised, contemporary style building plans before the Planning Commission for consideration.

**Enclosures:** Exhibit "A" (Site Plan, Elevations, Floor Plans, Preliminary Landscape Plan, Vicinity Map and Master Site Plan)  
Exhibit "C" (Color and Material Board)  
Draft Mitigated Negative Declaration  
Mitigation Monitoring Plan

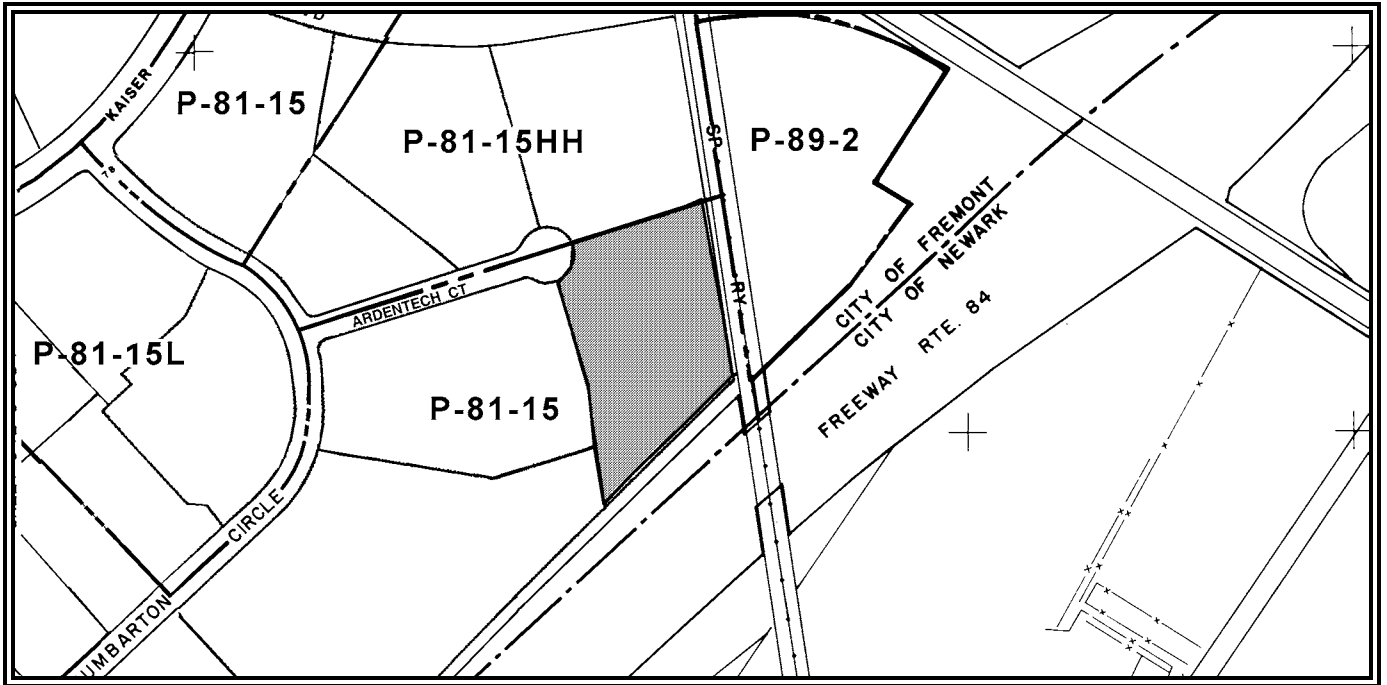
**Exhibits:** Exhibit "A" (Site Plan, Elevations, Floor Plans, Preliminary Landscape Plan, Vicinity Map and Master Site Plan)  
Exhibit "B" (Findings and Conditions of Approval)  
Exhibit "C" (Color and Material Board)

**Informational Enclosures:** Informational 1 (Architect's Design Statement)  
Informational 2 (Approved Minutes from August 28, 2003)

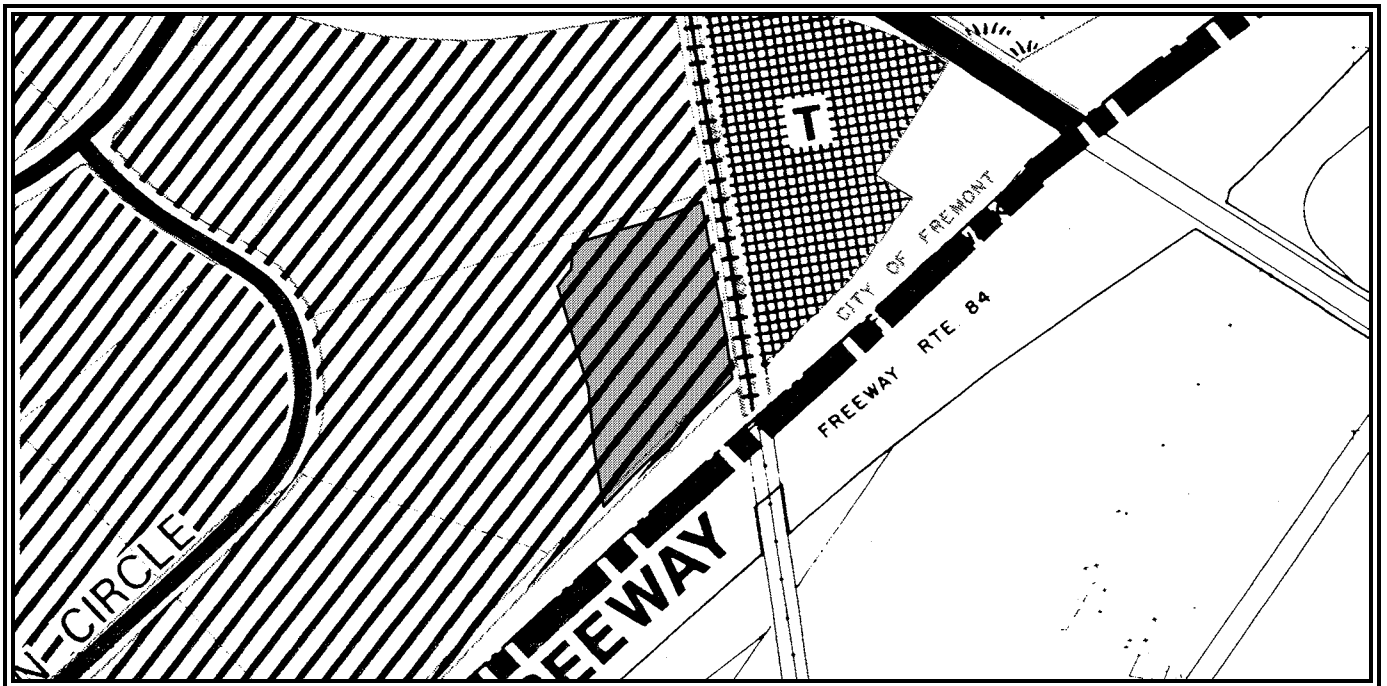
#### **Recommended Actions:**

1. Hold public hearing.
2. Find the initial study conducted for PLN2003-00309 has evaluated the potential impacts for this project that would cause an adverse effect -- either individually or cumulatively -- on wildlife resources, and find that there is no evidence the proposed project would have any potential for adverse effect on wildlife resources.
3. Adopt Draft Mitigated Negative Declaration prepared for the project and find that it reflects the independent judgment of the City of Fremont, and find there is no substantial evidence that the project, as mitigated, will have a significant effect on the environment.
4. Approve Mitigation Monitoring Plan for the project.
5. Find PLN2003-00309 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Public Facilities Chapter as enumerated within the staff report.
6. Approve PLN2003-00309, as shown on Exhibit "A", subject to findings and conditions on Exhibit "B".

**Existing Zoning P-81-15**  
Shaded Area represents the Project Site



**Existing General Plan Restricted Industrial**



**EXHIBIT "B"**  
**PLN2003-00309**  
**(Planned District Major Amendment for Site Plan and Architectural Approval and Use)**  
**DeVry University College Dormitory at Ardentech Court (APN# 543-0439-145-00)**  
**Planning Commission Hearing on October 9, 2003**

**Findings:**

The findings below are made on the basis of information provided at the public hearing and contained in the staff report to the Planning Commission dated October 9, 2003, incorporated herein.

- a) The proposed project described in the application is consistent with the General Plan in that it supports an educational institution's intent of providing a dormitory for students who wish to live on or adjacent to campus, thereby expanding opportunities for those individuals attending a post-secondary educational institution in Fremont.
- b) The proposed project described in the application is suitable and adequate the site because it is sufficient in size and is designed to be compatible in scale and appearance with the existing industrial character of the surrounding area. Furthermore, the Planning Commission will approve conditions necessary to achieve further site and architectural suitability.
- c) The proposed project would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services because the proposed dormitory will be located directly adjacent to the campus, providing complete room and board for 300 students. As such, the traffic impact as analyzed by staff is at a level far lower than any hotel, motel or industrial user of comparable size.
- d) The proposed project described in the application would not have a substantial adverse economic effect on nearby uses because the proposed dormitory is exclusively providing services for those students validly enrolled at the campus. In general, the dormitory is not open to the general public, except for school sponsored or educational related activities.
- e) The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of students residing at the proposed dormitory, nor the citizens of Fremont in general, because conditions of approval, as identified in the Initial Study under "Hazards and Hazardous Materials", are included for the proposed project to ensure that appropriate safety measures and evacuation drills are conducted on a regularly basis.

**Conditions of Approval**

**General Conditions:**



**General Conditions (Must be satisfied on ongoing basis)**

- 1. Approval of PLN 2003-00309 for an 83,996 square foot college dormitory for 300 students shall conform to Exhibit "A" (Site Plan, Elevations, Floor Plans, Preliminary Landscape Plan, and Master Site Plan). The proposed site plan, master site plan, elevations, and floor plans for the dormitory shall substantially conform to the plans submitted for this application, except as modified herein.
- 2. Any modification to the planned district major amendment shall be subject to review and approval of the Planning Director if such modifications are in keeping with the intent of the original approval, unless the Director finds that such modification warrants review and approval by the Planning Commission.

3. If the Planning Director finds evidence that conditions of approval have not been fulfilled or that the use or uses has or have resulted in a substantial adverse effect on the health, and/or general welfare of users of adjacent or proximate property, or have a substantial adverse impact on public facilities or services, the Planning Director may refer the planned district major amendment to the Planning Commission for review. If, upon such review, the Commission finds that any of the results above have occurred, the Planning Commission may modify, add conditions, or revoke the approval.
4. No activities at the facility shall be engaged in any business service, including Home Occupations, except for bona fide fundraising purposes and incidental uses appurtenant to servicing the students living in the dormitory.
5. DeVry University, or its successor in interest, shall disclose in writing to all students requesting housing in the dormitory of the existing surrounding conditions and its potential hazards and/or hazardous materials during the execution of rental (month to month) or lease (definite time period) contracts.
6. Housing services only may be rendered to those students validly enrolled at and faculty members providing services for the adjacent DeVry University campus located at 6600 Dumbarton Circle. As an accessory use to the college campus located at 6600 Dumbarton Circle, and except for individuals maintaining services and/or security for the student dormitory. In general, the dormitory may not render housing services to the general public, except during the occasions involving school sponsored or educational related activities.
7. The applicant shall maintain appropriate and adequate security for the dormitory on a 24-hour basis. A supervising attendee and/or dormitory manager must be present at the station at all times. This person shall be charged with maintaining order in the dormitory and its site as well as insuring the safety of all students living within the dormitory.
8. The applicant shall not lease or rent the tenant space or a portion of the establishment to an outside business as means of providing services to students living within the dormitory, unless the Planning Director grants approval of such business.
9. Security and safety lighting will be conforming to the City Security Ordinance and regulations, particularly along the pedestrian pathway linking the existing college campus and student dormitory.
10. The structure and required exiting for egress must comply with all local, state and federal building and fire code requirements.
11. The structure shall have an automatic fire extinguishing system subject to the review and approval of the Fremont Fire Marshall through the Development Organization review process.
12. The applicant shall be required to recycle all glass and plastic containers generated by the dormitory facility.
13. All vending machines, including laundry facilities, shall be securely fastened to the wall and/or ground, or other security devices shall be installed within the snack room(s), to prevent vandalism and theft.
14. The applicant shall work as necessary with present and future adjacent industrial users to ensure that the operation of the dormitory does not impede the ability of adjacent users conducting business or result in other adverse impacts.
15. The property owner is responsible for litter control and for sweeping of all paved surfaces. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.
16. The applicant or successor in interest shall conform to the conditions of approval herein and all other applicable ordinances of the Fremont Municipal Code.

17. Should additional security measures be needed in order to address any public safety concerns arising from the use, the applicant shall work with City staff to provide those additional security measures as requested by the City's Police Department and/or Planning Director.
18. In no case shall the dormitory be converted to a hotel or motel and opened to the general public, unless the Planning Director or Planning Commission approves a new Planned District Major Amendment.
19. All fire and safety apparatus and plans (i.e., a site-specific emergency preparedness and response plan, an evacuation plan and "shelter in place" plan) shall be maintained and updated as necessary.
20. In accordance with Article 19, Section 3.13 of the California Fire Code, the applicant will conduct a yearly fire evacuation drill.
21. The conditions of this Planned District Major Amendment [Use Permit] issued after successful compliance with Conditions indicated below shall be kept on the premises and made available to any officer/employee of the City upon request.

**Subject to the Development Organization review and approval, prior to Issuance of a Planned District Major Amendment [Use Permit] by the Planning Director to allow the operation of the college dormitory as an accessory use to the college campus located at 6600 Dumbarton Circle the following conditions must be satisfied.**

*Planning Division Requirements:*

22. Applicant shall submit appropriate plans and documents to City's Development Organization for review to insure conformance with conditions approved under this Major Amendment, Planned District conditions, and other relevant codes, policies and requirements of the Fremont Municipal Code. Prior to issuance of a building permit, all Development Impact Fees assessed shall be paid in full.
23. The incorporation of vertical trim elements, color treated an eggshell white color makes the dormitory appear too rigid. Vertical trim elements shall only be selectively incorporated and eliminated at some of the wall sections.
24. The corners of pilaster elements at the food facility shall be softened with accent lines and tile inserts to match other tower elements of the dormitory, thereby reducing its heavy appearance.
25. A different color and texture shall be incorporated at the building base to establish a strong connection to the ground and site.
26. The building midsection shall express the main 'body' of the building where by a cornice line element shall be included between the third and second level as partially shown on Alternative 2 on Sheet A-3 of Plans.
27. The building top portion shall express a different character by changing the window modulation and color to provide a variation in solid and voids from the lower two levels (e.g., changing operable slider windows to operable casement or single-hung windows, particularly at bay elements) or by incorporating a different architectural color treatment and/or design element.
28. A stronger vertical element (increased projection in wall) or contrasting color treatment shall be applied to projecting bays. The roof line should be varied at bays and increased in height and treated with additional bracket elements
29. Additional glazing shall be applied to third level under the main entry element or a different architectural treatment to emphasis the main entrance (below the arched roof element).

30. Based on input by the Planning Commission, the color scheme shall be revised. The proposed brown color should be changed to a deeper terracotta and the other colors will be reevaluated to ensure that they are harmonious with the main body color of the dormitory. Color contrast, however, is encouraged to express architectural details.
31. A hard-surface, e.g., concrete or appropriate interlocking pavers of at least four feet in width, shall be used to clearly identify the pedestrian connection linking the new dormitory and existing college campus. Additionally, a well lit walkway with decorative style bollard lights or the equivalent, with the inclusion of speed bumps/tables (or, alternatively, a raised in elevation for the pathway), shall be incorporated to provide a safe and attractive pathway with new landscape planters (or other means, e.g., raised curbs) flanking both sides to provide a sufficient protective barrier from parking areas. Some of the parking stalls on the proposed dormitory site shall be eliminated to provide a shorter, convenient pedestrian connection between both buildings.
32. The applicant must provide building construction techniques and materials necessary to reduce interior noise levels within the dormitory rooms, which have line of sight views of either the rail line or Hwy 84 [State Route 84]. Sound-rated windows and forced-air mechanical ventilation systems shall be required for the units facing the rail line and State Route 84. Once building elevations are developed, an acoustical engineer shall review these plans to assure that interior average and maximum noise levels meet State and City standards. A professional acoustical consultant must prepare and submit a letter to the Development Organization which indicates construction techniques and materials used satisfies requirements for noise attenuation.
33. Subject to Development Organization review and approval, some of the proposed parking area shall be converted to and provide for motorcycle parking.
34. The applicant shall explore the possibility of incorporating concepts and elements of "green building" into the design of the project. The black asphalt or roofing material on the flat roof shall be coated with a light colored gravel or painted with light colored or reflective paint to reflect the heat away from the building in the summer months. Similarly, the standing seam metal, barrel-shaped roof element shall be treated with a light matte color. In addition, the applicant should explore the possibility of using recycled content materials on the interior and exterior of the building, including installing energy-saving appliances (e.g. washer and dryer system).
35. Outdoor common area amenities shall be provided, either on site or on the adjacent college campus, e.g., dispersal of bike racks (or lockers) on the site, an outdoor (portable) barbeque facility in the courtyard, tables in the courtyard, etc., subject to the review and approval of Development Organization staff.

*Landscaping Department Requirements:*

36. Existing trees to remain, where bioswales are proposed, shall not be impacted by any grading operations. Appropriate tree protection measures shall be in place in accordance with City's Landscaping Development & Policies prior to commencing any grading or construction work.
37. All trees, with the exception of the redwoods, shall be minimum 24" box size tree. Redwoods shall be planted from minimum 15 gallon size container.
38. All ground covers will be a minimum 1 gallon size. No flats or jumbo packs are allowed.
39. Preservation of trees to remain in place or to be relocated shall follow procedures noted in the City of Fremont Landscape Development Requirements and Policies (LDRP). Proper graphics, notes, and details shall be presented on Demolition, Planting, and Grading plans.
40. Bike racks shall be installed in this phase of the project. Parking for 16 bikes shall be provided and distributed throughout the site. Key locations for bike parking shall be near main store entries and highly trafficked areas.

41. Trees slated for preservation, as part of this project that are removed or damaged during construction shall be mitigated with a minimum 48" box size tree subject to the approval of the City Landscape Architect and compliance with the provisions of the Tree Preservation Ordinance.
42. Small trees (to 15 feet tall) shall not be planted closer than six feet from building or roof overhang with a minimum planting area 5 feet wide. Medium trees (to 30 feet tall) shall not be planted closer than eight feet from building or roof overhang with a minimum planting area 6 feet wide. Tall trees (above 30 feet tall) shall not be planted closer than 15 feet from building or roof overhang with a minimum planting area 6 feet wide, preferably 8 feet wide.
43. A landscape plan shall be submitted to the Development Organization, for review and approval, indicating full details regarding (1) paving materials and textures of walkways and paved pedestrian areas, (2) lighting of walkways and pedestrian areas with low intensity non-glare type fixtures, (3) screening of driveways and parking areas, and (4) landscaping of site and open areas. As part of the landscape plans the applicant shall submit:
  - a. An underground irrigation plan.
  - b. Weed control specifications.
  - c. A lighting plan for the illumination of the building, pedestrian and parking areas. Type of lighting fixtures, their heights, intensity and direction shall be clearly indicated.
  - d. Construction details of raised planters, walkways, paths, benches, walls, fences, trellises, and other architectural features as appropriate to the project.
44. All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect. Current copy of the LDRP available at the Engineering Counter shall prevail.
45. Parking Lot lights will not be permitted in planters approved for trees as shown in the approved exhibits. Additional planters may be added to accommodate lights, beyond those shown on the exhibit for tree planting subject to review and approval of the City Engineer and conformance with other conditions of this project.
46. The applicant shall provide details of outdoor furniture including light fixtures, benches, trash enclosures, as part of the landscape plan. All design elements, including the furniture and light fixtures, shall be designed to promote a pedestrian friendly environment and shall be subject to staff review and approval during D.O.
47. No plastic chairs or tables shall be used as outdoor furniture.
48. Turf shall be planted from sod.
49. Please verify that plants specified comply with Bay Area Stormwater Management Agencies Association (BASMAA). Please provide cutsheets from BASMAA Handbook confirming that plants are on suggested planting list. Plants shall be installed from 1-gallon container size minimum, and hydroseeding/seeding is not permitted. Bioswale must be successfully flourishing and thriving prior to issuance of occupancy permits.
50. Per FMC 8-22706, for every five hundred square feet or fraction thereof of landscaped area, provide at least one new tree (approved by the City). PLANTING PLAN MUST LIST TOTAL SQUARE FEET OF LANDSCAPE AREA AND TOTAL TREES ON PLAN. Street trees and right-of-way landscape area on public streets are not included in the calculation.

*Environmental Services Department Requirements:*

51. All public and private storm drain inlets are to be stenciled "No Dumping – Drains to Bay" using stencils purchased from the Alameda County Urban Runoff Clean Water Program at 951 Turner Court, Hayward, California. Color and type of paint to be as approved by the City Engineer.
52. All recycling and waste collection areas are required to be screened from adjacent properties and public rights of way (FMC Section 8-22155). The trash enclosure must be built to screen the containers from public view and to insure the containers are on a concrete pad. The minimum size for an enclosure, based on the size of the proposed project should be at least 384 square feet. Refer to the Waste Handling Requirements for enclosure construction guidelines. The truck requires room to back up and turn on the property (41 foot turning radius).
53. Construction and demolition debris management: Recycling of construction and demolition debris is an important environmental concern to the City of Fremont in meeting the City's goal of 75% waste diversion by 2010 (Fremont Commercial/ Industrial Recycling Plan, adopted April 1999). This development will require the applicant to file a Project Waste Handling Plan and follow-up documentation, since it will generate a large amount of debris, i.e. asphaltic concrete, that can be recycled, including organic material/wood. This material may be recycled through any recycling company licensed to do business in Fremont, and recycling may cost less than disposing of the material as municipal solid waste. (See City forms included with the Fremont Waste Handling Requirements.)

*Engineering Department Requirements:*

54. The applicant shall submit a geotechnical study in accordance with the Seismic Hazards Mapping Act as well as all other applicable local, state and federal requirements prior to issuance of building permit during the Development Organization review process. Identified mitigation measures, if any, in the geotechnical study shall be incorporated into the design of the project.
55. The contractor shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.
56. The project plan shall include erosion control measures to prevent soil, dirt, debris, or other pollutants from entering the storm drain system during and after construction. A separate plan shall be submitted for this purpose and shall be subject to staff review and approval during the Development Organization process.
57. The contractor is responsible for ensuring that all contractors are aware of all storm water quality measures and that such measures are implemented. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
58. All grading shall be conducted in accordance with the Fremont Municipal Code, Title VIII, Chapter 4, Grading, Erosion And Sediment Control. Grading shall be subject to the review and approval of Development Organization staff.
59. To mitigate the identified air quality impacts of grading and construction, the following standard practices will be incorporated into the project at the time of development:
  - Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions;
  - Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage;
  - Paving shall be completed as soon as is practicable to reduce the time that bare surfaces and soils are exposed. In areas where construction is delayed for an extended period of time, the ground shall be revegetated to minimize the generation of dust;
  - Street sweeping shall be conducted to control dust and dirt tracked from the project site; and,

A person shall be designated to oversee the implementation of the dust control program.

*Building Department Requirements:*

60. All improvements to the project structure and site necessary for compliance with local, state and federal building and fire code requirements as well as any improvements required by the City in order to address public safety must be satisfied prior to release of building occupancy for this use.

*Fire Department Requirements:*

61. A fire alarm system shall be installed which includes voice annunciation capability in the case of an emergency. In addition, a fire control room shall be located in one identified location on the site easily accessible by emergency personnel. This room shall include devices to control and allow closure of all exterior ventilation systems in the case of an emergency.
62. DeVry shall prepare the following: (1) a site-specific emergency preparedness and response plan; and (2), an evacuation plan and "shelter in place" plan. All plans must be submitted to the City's Fire and Hazardous Materials Division prior to occupancy and use of the proposed facility. The Plans must address possible impacts from hazardous materials releases from nearby industrial users. The Plans must also include escape routes from the building and site. Both the evacuation plan and shelter in place plan must be posted and made available in the locations (e.g., in each hallway, elevators, at all exterior exits, cafeteria, study room, other ancillary rooms, etc.) and number as reasonably determined by the Fire and Hazardous Materials Division.
63. Grass cellblocks shall be installed on northeast and southwest sides of the building to provide a minimum 20-foot wide accessible drive for the City's Fire Engine.
64. The applicant shall meet all requirements in the 2001 California Fire Code and all local mandated fire code requirements adopted by City Council under Ordinance 2485.
65. The applicant shall install an automatic fire sprinkler system in the building for fire protection purposes. Water flow and control valves must be monitored by a central alarm monitoring system and Central Station. The monitoring system shall have a smoke detector placed over the fire panel, a pull station, and an audible device located in a normally occupied location.
66. Plan, specifications, equipment lists and calculations for the required sprinkler system must be submitted to the Fremont Fire Department Authority and Building Department for review and approval prior to installation. A separate plan review fee is required. Standard Required: N.F.P.A. 13
67. All Automatic Fire Suppression Systems Fire Department Connections shall have the following installed/provided
- a. Address placard installed at the connection.
  - b. Knox Cap installed on every inlet.
68. The applicant shall install a fire alarm system as required. The system must be monitored. The system must be N.F.P.A. 72 compliant and have an interior audible device per the C.F.C. Upon completion a "UL" serial numbered certificate shall be provided at no cost to the City of Fremont Fire and Life Safety Inspector.

*Police Department Requirements*

69. An exterior lighting plan for the exterior entry and applicable parking area, including specifications of existing or proposed fixtures, shall be submitted to and approved by the City's Plans and Permits Section prior to the issuance of a building permit. The parking lot and pedestrian pathway is to be well lit, at least one foot candle, during hours of darkness.

70. The applicant shall work with the Police Department to install any necessary security devices, i.e. surveillance equipment, within the project structure's common areas and its exterior adjacent areas.
71. Plans submitted to the City's Plans and Permits Section must indicate the location where a supervising attendee or manager may be found within the dormitory facility.